

REMARKS

Status of the Claims

Claims 1-14 are pending. Claims 1, and 4-8 are amended. Claim 3 is canceled. Claims 1-9 are rejected under 35 USC § 112, first paragraph. Claims 10-14 are allowed.

Examiner Interview Summary

On February 14, 2004 and February 15, 2005, Examiner Holleran conducted interviews with Applicant's representative. During the interviews, the issues raised in the Office Action were discussed in detail. Additionally, claim amendments were proposed with a view toward overcoming the outstanding rejection and placing the application in condition for allowance.

The time and attention of Examiner Holleran are greatly appreciated.

Claim Objections under 37 C.F.R. §1.75(c)

Claims 3 and 4 are objected to under 37 C.F.R. § 1.75(c). This objection is respectfully traversed. Reconsideration and withdrawal thereof are requested. However, this objection is moot in view of the cancellation of claim 3, and is believed to be moot in view of the amendment to claim 4.

Issues Under 35 USC § 112

Claim 1-9 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. This rejection is respectfully traversed. Reconsideration and withdrawal thereof are

requested. However, in view of the above claim amendments and discussions during the Examiner interview, this rejection is believed to be moot.

Claim 1 is believed to be definite in view of the conversation with the Examiner.

As stated above, Claim 3 is canceled.

Claims 5 and 6 are amended as per the discussions during the interview.

Claims 1-9 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. This rejection is respectfully traversed. Reconsideration and withdrawal thereof are requested. However, in view of the above claim amendments and discussions during the interview, this rejection is believed to be moot.

Addressing the specific concerns of the Examiner, claim 5 is amended to clarify “proteinaceous expressions.” Support for this amendment can be found in the Specification, including on pages 4-6. For example, on page 6, lines 1-2 indicate that an embodiment of the present invention is a protein biomarker that is an expression of oncogene c-erbB-2.

Additionally, claim 1 is amended to reflect concerns raised during the interview regarding the phrase “protein biomarker constituents.” Support for this amendment can also be found in the Specification, including on pages 4-6.

From the forgoing, further favorable reconsideration in the form of a notice of allowance of claims 1-14 is believed to be in order and such action is earnestly solicited.

Petition for an Extension of Time

Pursuant to 37 CFR § 1.136(a) applicants respectfully petition for a three-month extension of time to respond to the outstanding Office Action. Form PTO 2038 authorizing a charge of \$510.00 is attached hereto.

If the Examiner has any questions concerning this amendment, or the application in general, she is requested to contact the undersigned at the number listed below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard S. Myers, Jr.", is written over a horizontal line.

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